

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SCHEDULING ORDER
September 24, 2004

NEIMAN, U.S.M.J.

Michael Bergdoll, Pasquale Romeo, Theodore Jarrett, Mark McCarthy and Jonathan Frederick (“Defendants”) having been arraigned before the court yesterday and having not yet elected to proceed under the automatic discovery rules, the court hereby orders, in accordance with Local Criminal Rules (LR) 116.1 through 116.5, that:

1. Each defendant shall, on or before October 7, 2004, file a Notice Re: Automatic Disclosure with the clerk's office and a copy thereof with the Government.
2. In the event that a defendant states in the Notice Re: Automatic Disclosure that no waiver will be filed (or in the event that Defendant fails to file the form by October 7, 2004, in which case it shall be deemed, in accord with LR 116.1(C), that defendant will proceed under the automatic discovery provisions in accord with LR 116.1(C)), further proceedings with respect to that defendant shall be governed as follows:

- A. The Government shall produce, on or before October 21, 2004, or within fourteen days of receipt by the Government of a written statement that no waiver will be filed, *whichever shall first occur*, those materials required to be produced under LR 116.1(C).
- B. Defendant shall produce, on or before October 21, 2004, those materials required to be produced under LR 116.1(D).
- C. Any discovery request letters shall be sent and filed by November 4, 2004. See LR 116.3(A) and (H).
- D. Any responses to discovery request letters shall be sent and filed within fourteen days of receipt of the discovery request letter(s) referred to in Paragraph C above *or* on or before November 18, 2004, *whichever date shall first occur*. See LR 116.3(A).
- E. Consistent with the provisions of LR 116.3(E) through (H), any and all discovery motions shall be filed on or before fourteen days after the receipt of the opposing party's declination to provide the requested discovery *or* fourteen days after the opposing party has received the discovery request letter and has failed to respond thereto, *whichever date shall first occur*. See LR 116.3(E) through (H).
- F. Consistent with the provisions of Paragraph E above, a response to any motion shall be filed on or before fourteen days after the motion has been filed. See LR 116.3(I).

- G. An Initial Status Conference in accordance with LR 116.5 will be held on November 15, 2004, at 2:30 p.m. in Courtroom III.¹
- H. A joint memorandum addressing those items set forth in Local Rule 116.5(A)(1) through (7) shall be filed on or before the close of business, November 10, 2004.

3. In the event that a defendant waives the automatic disclosure of discovery material in his Notice Re: Automatic Disclosure, further proceedings with respect to that defendant shall be governed as follows:

- A. Any discovery request letters shall be sent and filed by October 21, 2004. See LR 116.3(A) and (H).
- B. Any responses to discovery request letters shall be sent and filed within fourteen days of receipt of the discovery request letter referred to in Paragraph A above *or* on or before November 4, 2004, *whichever date shall first occur*. See LR 116.3(A).
- C. Consistent with the provisions of LR 116.3(E) through (H), any and all discovery motions shall be filed on or before fourteen days after receipt of the opposing party's declination to provide the requested discovery *or* fourteen days after the opposing party has received

¹ Defendants are not required to be present at the Initial Status Conference. Inasmuch as the court concludes that the Initial Status Conference is not a critical proceeding within the meaning of Fed. R. Crim. P. 43, defendants in custody will not be transported to court for the Initial Status Conference absent a showing of exceptional cause on motion duly filed in advance of the Initial Status Conference. See Fed. R. Crim. P. 43(c)(3).

the discovery request letter and has failed to respond thereto,
whichever date shall first occur. See LR 116.3(E) through (H).

- D. Consistent with the provisions of Paragraph C above, a response to any motion shall be filed on or before fourteen days after the motion has been filed. See LR 116.3(I)
- E. An Initial Status Conference in accordance with LR 116.5 will be held on November 15, 2004, at 2:30 p.m. in Courtroom III.²
- F. A joint memorandum addressing those items set forth in Local Rule 116.5(A)(1) through (7) shall be filed on or before the close of business, November 10, 2004.

IT IS SO ORDERED.

DATED: September 24, 2004

/s/ Kenneth P. Neiman
KENNETH P. NEIMAN
U.S. Magistrate Judge

² *See* footnote 1.